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Date: September 20, 2005

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From: Robert W. Gauthier

Sender's Number:

(617) 832-1175

User #:

1063

Total Pages Sent (Including Cover Sheet): 10

Office:

Boston

**Message**

Re: U.S. Application No. 10/696,907

Filed: October 30, 2003

Title: Performance Assessment of Data Classifiers

Attorney Docket No. CEO-012.02

**RECEIVED**  
SEP 27 2005  
OFFICE OF PETITIONS

Dear Sir or Madam

We transmit the following herewith:

1. Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (2 pgs.);
2. Remarks Regarding Petition for Revival of Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (2 pgs.) and confirmation copy of letter of instruction as received September 19, 2005 (1 pg.);
3. PTOL-85 (1 pg. plus duplicate for processing fees); and
4. Fee Transmittal for FY2005 (1 pg. plus duplicate).

Robert W. Gauthier  
Reg. No. 35,153

**IMPORTANT - PLEASE READ**

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION PLEASE TELEPHONE THE SENDER.

Seaport World Trade Center West / 155 Seaport Blvd. / Boston, MA 02210-2600 / TEL: 617.832.1000 / FAX: 617.832.7000

Foley Hoag LLP

BOSTON

WASHINGTON, DC

www.foleyhoag.com

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BOLEY HOAG LLP

IFW

PAGE 02/10

SEP 20 2005

PTO/SB/54 (09-04)

Approved for use through 07/31/2005. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
CEO-012.02

First named inventor: Dempsey, Derek M.

Application No.: 10/696,907

Art Unit: 2857

Filed: October 30, 2003

Examiner: Hal D. Wachsman

Title: PERFORMANCE ASSESSMENT OF DATA CLASSIFIERS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity - fee \$750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$\_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of \_\_\_\_\_ (identify type of reply):

☐ has been filed previously on \_\_\_\_\_.

☐ is enclosed herewith.

B. The issue fee of \$ 1,000

☐ has been paid previously on \_\_\_\_\_.

☒ is enclosed herewith.

09/26/2005 DALLEN 00000016 061448 10696907

01 FC:2453 750.00 DA  
02 FC:1599 1000.00 DA

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/84 (09-04)

Approved for use 07/31/2005. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1985, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**



Robert W. Gauthier

Typed or printed name

September 20, 2005

Date

35,153

Registration Number, if applicable

Patent Group

Foley Hoag, LLP

Address

617-832-1175

Telephone Number

155 Seaport Blvd.  
Boston, MA 02210-2600

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other : \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

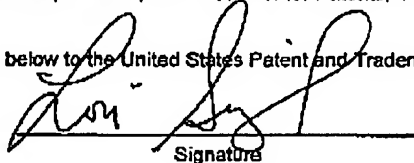
I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

September 20, 2005

Date



Signature

Lori A. Simoglou

Typed or printed name of person signing certificate

[Page 2 of 2]

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Patent  
Attorney's Docket No. CEO-012.02

SEP 20 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Dempsey et al.

Application No: 10/696,907

Filed: October 30, 2003

For: PERFORMANCE ASSESSMENT OF  
DATA CLASSIFIERS

Art Unit: 2857

Confirmation No.: 9241

Examiner: Hal D. Wachsman

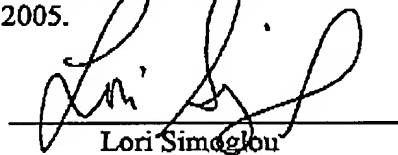
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SEP 27 2005

OFFICE OF PETITIONS

CERTIFICATE OF TRANSMISSION

I hereby certify that the following paper is being facsimile transmitted to the Patent and Trademark Office on September 20, 2005.

  
Lori Simoglou

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**REMARKS REGARDING PETITION FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Applicants provide the following Remarks regarding the unintentional abandonment of the above-referenced application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper; however, in the event that additional extensions of time are necessary, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

The Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to our Deposit Account No. 06-1448, Reference CEO-012.02.

-1-

B3097031.1

Patent  
Attorney's Docket No. CEO-012.02

**REMARKS**

Applicants transmitted the attached letter of instruction by facsimile to an incorrect number. Thus, Applicants' undersigned agent did not receive the facsimile transmission with the instructions in time for payment of the Issue Fee. The undersigned received the confirmation copy by mail on September 19, 2005, after the deadline for filing the Issue Fee. Accordingly, the abandonment of the above-mentioned application was unintentional and Applicants hereby petition to revive the application under 37 CFR 1.137(b).

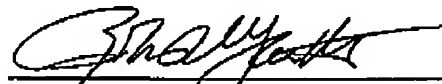
**CONCLUSION**

Based on the above, Applicants state that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If there are any remaining issues or if a telephone conversation would be helpful in expediting the issuance of this application, the undersigned can be called at 617-832-1175.

Respectfully submitted,

Date: September 20, 2005

Customer No: 25181  
Patent Group  
Foley Hoag, LLP  
155 Seaport Blvd.  
Boston, MA 02210-2600



Robert W. Gauthier, Reg. No. 35,153  
Attorney for Applicants  
Tel. No. (617) 832-1175  
Fax. No. (617) 832-7000



# GRIFFITH HACK

PATENT AND TRADE MARK ATTORNEYS

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Foley Hoag LLP  
World Trade Center West  
155 Seaport Boulevard  
BOSTON MA 02210  
USA

Attention: Robert W. Gauthier

BY FACSIMILE/CONFIRMATION BY MAIL  
0015 1 571 273 8300

13 September 2005

Dear Robert

United States Of America Patent Application No. 10/696907  
in the name of **CEREBRUS SOLUTIONS LIMITED**  
entitled **PERFORMANCE ASSESSMENT OF DATA CLASSIFIERS**  
Your Ref: CEO-012.02 (23709)  
Our Ref: RJW:MC:FP21611

Thank you for your reminder email of 12 September 2005. Our client has advised that they wish to proceed with this application. Accordingly, please pay the issue fee with the USPTO by the deadline of 15 September 2005.

We look forward to receiving your further report in due course.

Kindly acknowledge receipt.

Yours sincerely

Rohan Wallace  
Senior Associate  
rohan.wallace@griffithhack.com.au

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SEP 19 2005

PATENT DEPT.  
DOCKETING

**CONFIRMATION**

*File Retention & Review*

**DOCKETED**

**DUE: 11.19.05**

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SEP 27 2005

**OFFICE OF PETITIONS**

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SEP 19 2005

PATENT DEPT.  
DOCKETING

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b>		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>for FY 2005</b>		Application Number	10/696,807
		Filing Date	October 30, 2003
		First Named Inventor	Dempsey, Derek M.
		Examiner Name	Hal D. Wachsman
		Art Unit	2857
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	CEO-012.02
<b>TOTAL AMOUNT OF PAYMENT</b>		<b>(\$)</b> 750	

**METHOD OF PAYMENT (check all that apply)**

☐ Check 
 ☐ Credit Card 
 ☐ Money Order 
 ☐ None 
 ☐ Other (please identify) : \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 06-1448 Deposit Account Name: Foley Hoag LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below 
 ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) 
 ☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

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**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES**

Fee Description	Small Entity Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

**Total Claims** \_\_\_\_\_ **Extra Claims** \_\_\_\_\_ **Fee (\$)** \_\_\_\_\_ **Fee Paid (\$)** \_\_\_\_\_

-20 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims** \_\_\_\_\_ **Extra Claims** \_\_\_\_\_ **Fee (\$)** \_\_\_\_\_ **Fee Paid (\$)** \_\_\_\_\_

- 3 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

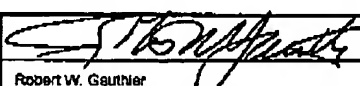
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	_____
Other (e.g., late filing surcharge): Petition Fee	750

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	35,153
Name (Print/Type)	Robert W. Gauthier	Telephone	(617)832-1175
		Date	September 20, 2005

This collection of information is required by 37 CFR 1.156. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 20 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-789-8199) and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).		Complete if Known	
<b>FEE TRANSMITTAL for FY 2005</b>		Application Number	10/698,907
		Filing Date	October 30, 2003
		First Named Inventor	Dempsey, Derek M.
		Examiner Name	Hal D. Wachsman
		Art Unit	2867
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	CEO-012,02
<b>TOTAL AMOUNT OF PAYMENT (\$)</b> 750		RECEIVED CENTRAL FAX CENTER SEP 20 2005	

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) :

☒ Deposit Account Deposit Account Number: 06-1448

Deposit Account Name: Foley Hoag LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below

☐ Charge fee(s) indicated below, except for 8-7-2005

☒ Charge any additional fee(s) or underpayments of fee(s)

☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)

Small Entity Fee (\$)

Each independent claim over 3 (including Reissues)

50

25

Multiple dependent claims

200

100

**Total Claims****Extra Claims****Fee (\$)****Fee Paid (\$)**

360

180

**Multiple Dependent Claims**

-20 or HP=

x

=

**Fee (\$)****Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims****Extra Claims****Fee (\$)****Fee Paid (\$)**

- 3 or HP=

x

=

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		

**4. OTHER FEE(S)**

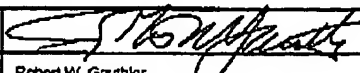
Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition Fee

**Fees Paid (\$)**

750

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent)	35,153	Telephone	(617) 832-1175
Name (Print/Type)	Robert W. Gauthier	Date	September 20, 2005		

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.